IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 5204 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE D.P.BUCH

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

BHARATBHAI AMBABHAI MANGUKIA PATEL

Versus

STATE OF GUJARAT

Appearance:

1. Criminal Misc.Application No. 5204 of 2001

MR UTPAL M PANCHAL for Petitioner No. 1

MR RC KODEKAR A.P.P. for Respondent No. 1

CORAM : MR.JUSTICE D.P.BUCH

Date of decision: 30/07/2001

ORAL JUDGEMENT

1. Rule. Mr.R.C. Kodekar, learned A.P.P. waives service of Rule. By consent of learned advocates for the

parties, this application is being heard and disposed of finally.

2. This is an application under Section 439 of the Code of Criminal Procedure, 1973 for enlargement of the petitioner on bail in connection with Kosamba police station, Crime Register No.I.25/2001, relating to offence punishable under Section 489 of the IPC. Considering the affidavit of Mr.I.K.Desai, Police Sub-Inspector Kosamba police station, Surat (Rural), placed at annexure-A, which was filed before the Trial Court and considering the other materials on record it is noticed that the present petitioner is found to be in possession of certain currency notes and the notes were found to be fake. At the same time the observation of the Trial Court, goes to show that these currency notes were received by the present applicant from another accused and when the present applicant came to know that the notes were fake he was on way to see the accused who had given him the said notes for returning them to the said accused and in the process the applicant was caught and he was found in possession of the said currency notes.

3. In view of the above position, I am of the view that the applicant deserves to be enlarged on bail. It is more so when certain other accused presons have been enlarged on bail and so far as the Criminal conspiracy is concerned it is difficult to agree that there was a prima facie case of criminal conspiracy. So far as involvement of the present applicant in such case of criminal conspiracy is concerned, it is also required to be considered that except the fact that fake notes were seized from the possession of the applicant, there is no other material against the applicant. In that view of the matter it is a fit case for releasing the applicant on bail. Under the circumstances, this application is allowed. The applicant is ordered to be released on bail in connection with Crime Register No.I-25/2001 on his furnishing personal recognitions and surety in the sum of Rs.10,000/- (Ten thousand only) on following conditions

(1) The petitioner shall make himself available for interrogation by a police officer as and when required.

(2) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer.

(3) The petitioner shall not leave Gujarat State without the prior permission of the Court;

(4) On every 1st date of English Calendar month during the period from 10 a.m. to 5 p.m. petitioner shall appear before PSO of Kosamba police station and shall mark his presence for which the learned Sessions Judge Surat shall write a Yadi directing PSO of above police station to keep and maintain a written record for such presence marked by the petitioner;

(5) The petitioner shall furnish his true and correct complete address of his residence where he will stay for the period from date of his stay for the period from date of his release on bail to date of conclusion of trial of the case both to the I.O. and learned Sessions Judge, Surat supported with affidavits;

(6) In case of any change in his address of such residence, he shall immediately inform the learned Sessions Judge Surat, about such change in address of residence;

(7) The petitioner shall surrender his passport to PSO of above police station, Surat, if any.

(8) The petitioner shall not leave Surat District without prior permission of the learned Sessions Judge.

The learned Sessions Judge, Surat, shall examine and check all the documents which may be produced by a person who wants to stand as surety for petitioner for his satisfaction as to whether that person is in fact solvent or not and thereafter, it will be his judicial discretion that he may accept or refuse that person as surety for the petitioner.

Bail bonds be executed before the learned Sessions Judge, Surat.

If any one or more conditions are reported to

have been breached by the petitioner, the learned Sessions Judge, Surat shall be at liberty to issue non-bailable warrant against the petitioner.

Rule is made absolute accordingly. D.S. permitted.

(D.P. Buch, J.)
/phalguni/